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SECRETARIAT  
OF  
THE ODISHA LEGISLATIVE ASSEMBLY  
NOTIFICATION

The 25th April, 2019

No.2458 /L.A.– The following decision, dated the 25th April, 2019 of the Speaker, Odisha Legislative Assembly given under paragraph 6(1) of the Tenth Schedule to the Constitution of India is hereby notified and published for general information:-

**DECISION OF THE SPEAKER, ODISHA LEGISLATIVE ASSEMBLY UNDER  
PARAGRAPH 6(1) OF THE TENTH SCHEDULE TO THE CONSTITUTION OF INDIA**

One disqualification petition has been filed by Shri Tara Prasad Bahinipati, Hon'ble Chief Whip of Indian National Congress Legislature Party under the 10<sup>th</sup> Schedule to the Constitution of India and the provisions contained in the Members of Odisha Legislative Assembly (Disqualification on Grounds of Defection) Rules, 1987 hereinafter referred to in short as the Rules 1987 on 29.03.2019 to declare Shri Prakash Chandra Behera disqualified for being a Member of the Odisha Legislative Assembly. The copy of the disqualification petition alongwith the Annexures were forwarded to the M.L.A. Shri Behera to offer his comments by order dated 30.03.2019. After receipt of the said petition and the Annexures, the respondent did not respond to the same.

On 06.04.2019 the respondent was asked to appear before me on 20.04.2019. Pursuant to notice issued by the Office respondent M.L.A. appeared before me on 20.04.2019 through his Advocate and submitted letter in two copies in which *inter alia* he raised as follows:

As per the requirement of Rule-6 of the Members of Odisha Legislative Assembly (Disqualification on the Grounds of defection) Rules, 1987, no verification was made by the petitioner in his petition as the rules provides that the disqualification petition must contain the verification of the petitioner as per the manner laid down in the Code of Civil procedure 1908 (5 of 1908) for the verification of the pleadings. But no verification was made by the petitioner in his petition which is liable to be dismissed as per the above provision.

Though the xerox copy of the Annexure was attached to the petition the same was not signed and verified by the petitioner as per the norms and conditions provided in section-7 of the above Rules, which is liable to be dismissed.

As per the provisions of rule 7(2) of the Rules, if the petition does not comply with the requirement of Rule-6, the Speaker shall dismiss the petition and intimate the petitioner accordingly.

In the same objection he submitted his contention that for noncompliance of the above mandatory requirement of the provisions of the above statutory law, the petition should have been dismissed under Rule-7(2) of the aforesaid Rules, If the above requirements could have been complied with, then only the copies of the petition and Annexure thereto were required to be forwarded to him for comments. In other words, since the above requirements have not been complied with the petition should be required to be dismissed by the Hon'ble Speaker without forwarding the same to him. By submitting above objection he prayed for an adjournment. Time was allowed up to 25.04.2019.

One copy of the above letter was supplied to the petitioner for availing the opportunity of filing rejoinder if any.

On 25.04.2019 neither the respondent MLA nor the petitioner appeared.

As next course, I examined the objection as raised by the respondent and hold that the petition as well as the annexure attached to the petition do not comply with the requirements laid down in Rule 6 (6) and Rule 6 (7) of the above Rules 1987 respectively. Therefore, the disqualification petition has not been filed as per rules.

### **ORDER**

In the result I allow the objection as raised by the respondent MLA and in consequence thereof I Shri Pradip Kumar Amat, Speaker dismiss the disqualification petition under Sub-Rule 2 of Rule 7 of the Members of Odisha Legislative Assembly (Disqualification on the Grounds of defection) Rules, 1987 for non-compliance with the provisions of Sub-Rule 6 & 7 of Rule 6 of the above Rules 1987.

PRADIP KUMAR AMAT

SPEAKER

Dated 25.4.2019

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SISIRKANTA SWAIN

SECRETARY-IN-CHARGE

ODISHA LEGISLATIVE ASSEMBLY